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GROUP 1700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of
J. Bednorz et al.

: Date: December 15, 1998

Serial No. 08/303,561

: Group Art Unit: 1105

Filed: September 9, 1994

: Examiner: M. Kopec

For: NEW SUPERCONDUCTIVE COMPOUNDS HAVING HIGH TRANSITION
TEMPERATURE, AND METHODS FOR THEIR USE AND PREPARATION

AFFIDAVIT UNDER 37 C.F.R. 1.132

Commissioner of Patents and Trademarks
Washington, D. C. 20231

Sir:

I, David B. Mitzi, being duly sworn, do hereby depose and state:

That I received a B. S. E. degree in Electrical Engineering/Engineering Physics (1985) from Princeton University and a PhD. degree, in Applied Physics (1990) from Stanford University, California.

That I have worked as a research staff member in Solid State Chemistry at the Thomas Watson Research Center of the International Business Machines Corporation in Yorktown Heights, NY from 1990 to the present.

That I have worked in the fabrication of and characterization of high temperature superconductor and related materials from 1990 to the present.

That I have reviewed the above-identified patent application and that I have reviewed the above-identified patent application and acknowledge that it represents the work of Bednorz and

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Muller, which is generally recognized as the first discovery of superconductivity above 26°K and that subsequent developments in this field have been based on this work.

That all the high temperature superconductors which have been developed based on the work of Bednorz and Muller behave in a similar manner, conduct current in a similar manner and have similar magnetic properties.

That once a person of skill in the art knows of a specific transition metal oxide composition which is superconducting above 26°K, such a person of skill in the art, using the techniques described in the above-identified patent application, which includes all known principles of ceramic fabrication known at the time the application was filed, can make the transition metal oxide compositions encompassed by the claims in the above identified application, without undue experimentation or without requiring ingenuity beyond that expected of a person of skill in the art. This is why the work of Bednorz and Muller was reproduced so quickly after their discovery and why so much additional work was done in this field within a short period of their discovery.

The general principles of ceramic science referred to by Bednorz and Mueller in their patent application can be found in many books and articles published before their discovery. An exemplary list of books describing the general principles of ceramic fabrication are:

- 1) Introduction to Ceramics, Kingery et al., Second Edition, John Wiley & Sons, 1976, in particular pages 5-20, 269-319, 381-447 and 448-513, a copy of which is with the Affidavit of Thomas Shaw submitted December 15, 1998.
- 2) Polar Dielectrics and Their Applications, Burfoot et al., University of California Press, 1979, in particular pages 13-33, a copy of which is with the Affidavit of Thomas Shaw submitted December 15, 1998.
- 3) Ceramic Processing Before Firing, Onoda et al., John Wiley & Sons, 1978, the entire book, a copy of which is with the Affidavit of Thomas Shaw submitted December 15, 1998.

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4) Structure, Properties and Preparation of Perovskite-Type Compounds, F.S. Glasco, Pergamon Press, 1969, in particular pages 159-186, a copy of which is with the Affidavit of Thomas Shaw submitted December 15, 1998.

An exemplary list of articles applying their general principles of ceramic fabrication to the types of materials described in applicants' specification are (these references are cited on applicant's 1449 form submitted August 5, 1987 and in PTO Form 892 in Paper # 20, Examiner's action dated August 8, 1990):

1) Oxygen Defect K_2NiF_4 - Type Oxides: The Compounds $La_{2-x}Sr_xCuO_{4-x/2+\delta}$, Nguyen et al., Journal of Solid State Chemistry 39, 120-127 (1981).

2) The Oxygen Defect Perovskite $BaLa_4Cu_5O_{13.4}$, A Metallic Conductor, C. Michel et al., Mat. Res. Bull., Vol. 20, pp. 667-671, 1985.

3) Oxygen intercalation in mixed valence copper oxides related to the perovskite, C. Michel et al., Revue de Chemie minerale, p. 407, 1984.

4) Thermal Behaviour of Compositions in the Systems $x BaTiO_3 + (1-x) Ba(Ln_{0.5}B_{0.5})O_3$, V.S. Chincholkar et al. Therm. Anal. 6th, Vol. 2., p. 251-6, 1980.

By:



David B. Mitzi

Sworn to before me this

15th day of December, 1998

Notary Public

DANIEL P. MORRIS
NOTARY PUBLIC, State of New York
No. 4888878
Qualified in Westchester County
Commission Expires March 16, 1999

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